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Attorneys for Defendants HOLLY T. SHIKADA,
in her official capacity as Attorney General
of the State of Hawaii and WILLIAM OKU, JR., in his
official capacity as the State Sheriff Division Administrator

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

ANDREW NAMIKI ROBERTS,

Plaintiff,

vs.

HOLLY T. SHIKADA, in her official
capacity as the Attorney General of the
State of Hawaii, and WILLIAM OKU,
JR., in his official capacity as the State
Sheriff Division Administrator,

Defendants.

CIVIL NO. 1:18-cv-00125-HG-RT

**MOTION FOR JUDGMENT ON
THE PLEADINGS UNDER FRCP
RULE 12(c) AND, IN THE
ALTERNATIVE, MOTION TO
DISMISS UNDER FRCP RULE
12(b)(1), AND FOR OTHER RELIEF;
MEMORANDUM IN SUPPORT OF
MOTION; DECLARATION OF
ROBERT T. NAKATSUJI; EX. "A";
CERTIFICATE OF SERVICE**

Honorable Helen Gillmor

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ANDREW NAMIKI ROBERTS,

Plaintiff,

vs.

HOLLY T. SHIKADA, in her official
capacity as the Attorney General of the
State of Hawaii, and WILLIAM OKU,
JR., in his official capacity as the State
Sheriff Division Administrator,

Defendants.

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**MOTION FOR JUDGMENT ON THE PLEADINGS UNDER FRCP RULE
12(c) AND, IN THE ALTERNATIVE, MOTION TO DISMISS UNDER
FRCP RULE 12(b)(1), AND FOR OTHER RELIEF**

Defendant HOLLY T. SHIKADA,¹ in her official capacity as the Attorney
General of the State of Hawaii and Defendant WILLIAM OKU, JR., in his official
capacity as the State Sheriff Division Administrator (collectively, the “**State
Defendants**”) respectfully move for judgment on the pleadings pursuant to Fed. R.
Civ. P. Rules 7(b) and 12(c), for dismissal of this action under Fed. R. Civ. P.
Rules 7(b) and 12(b)(1), for a lifting or modification of the stay of this action

¹ HOLLY T. SHIKADA is automatically substituted for CLARE E. CONNORS
and WILLIAM OKU, JR., is substituted for AL CUMMINGS in accordance with
Rule 25(d) of the Federal Rules of Civil Procedure.

pursuant to this Court’s inherent authority, and for a waiver of the seven-day waiting period under LR7.8 of the Local Rules of Practice for the United States District Court for the District of Hawaii.

On July 29, the Ninth Circuit held that Plaintiff’s “declaratory relief claim is moot,” and remanded this case to this Court. *Roberts v. Cummings*, No. 21-15562, 2022 WL 3010183, at *1 (9th Cir. July 29, 2022). For the reasons set forth in the accompanying memorandum, this Court should enter judgment in the State Defendants’ favor under FRCP Rule 12(c) with respect to all remaining claims because all claims against the State Defendants fail as a matter of law and, additionally, are barred by the Eleventh Amendment and principles of state sovereign immunity. In the alternative, the Court should dismiss the remaining damages claims against the State Defendants pursuant to FRCP Rule 12(b)(1).

Additionally, as explained in the accompanying memorandum and declaration, certain other relief—specifically, a partial lifting or termination of the stay of this litigation to the extent necessary to permit the consideration of this motion and a waiver of the LR7.8 seven-day waiting period—is also warranted.

This motion is made following the conference of counsel pursuant to LR7.8 which took place on August 1, 2022. At the conference, Plaintiff, through counsel, has indicated an intent to oppose this motion.

The State Defendants respectfully make these requests at the present time given the possibility of potential uncertainty regarding the current status of the stay of this action following the Ninth Circuit's remand order, and in order to facilitate the orderly and expeditious resolution of this litigation and ensure the timely preservation of the defenses outlined herein.

DATED: Honolulu, Hawaii, August 1, 2022.

s/ Robert T. Nakatsuji

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CARON M. INAGAKI
Deputy Attorneys General

Attorneys for Defendants HOLLY T.
SHIKADA, in her official capacity as
Attorney General of the State of Hawaii and
WILLIAM OKU, JR., in his official
capacity as the State Sheriff Division
Administrator